

## WHAT TO EXPECT AT COURT – FIRST RETURN DATE –PROCEDURAL/DIRECTIONS HEARINGS

### What will happen?

Currently, most court events continue to be dealt with online by Microsoft Teams. The court will usually provide a link to the Microsoft Teams meeting one or two business days before the hearing, and we will forward this to you when we receive it. You should ensure that Teams is downloaded, ideally on your computer and otherwise on your phone, so you can access it on the day of your hearing. If you have any issues with that, please let us know and we could make some arrangements for you to attend and participate in the hearing from our office. We attach an information sheet from the court that provides more detail.

When you dial into the hearing, you will need to have your camera off and be on mute.

On or before the day of your hearing, we will organise a conversation between you and your lawyer/barrister either on Zoom or by telephone to discuss what is most important to you and what you want to achieve from the hearing.

Sometimes, the barristers or solicitors will agree in advance of the court date on the proposed orders that should be made, and they will be sent to the court and made by the court on the day of the hearing.

However, mostly, no decisions are made until the hearing date.

There will be many people's matters in the court list at the same time as yours and the first thing that will happen if there is not already an agreement between us and your former partner's solicitor as to all issues, your barrister will tell the court that we want to "stand the matter down" to have some discussions with the lawyers for your former partner.

The barristers will generally ring each other and chat about your case, often with solicitors involved, to see if an agreement can be reached about any aspect of your matter. No decision is made by your barrister – all the decisions are made by you; however, the conversation happens between the lawyers.



If some things can be agreed on (which they usually are), we will prepare a document called a “consent order,” which summarises what has been agreed upon and gets handed to the court to be made as orders.

If there are any aspects that cannot be agreed on, we will tell the court that we will need a judicial officer to decide. If the matters that cannot be agreed on are procedural (such as expert evidence or reports or testing) then the judicial registrar may make that decision on the day. If the matters are substantive (such as the children’s arrangements or the sale of a property), then the matter will need to be relisted before a judge or at least a Senior Judicial Registrar who has the power to make those orders without consent. In that case, it is likely that no substantive decisions will be made on the day, and so your position may not change or improve until a decision is made by the judge or Senior Judicial Registrar, or an agreement is reached.

Often, you will be asked to make decisions at court quite quickly, so it is important to consider in advance which aspects of the things you are seeking in your interim orders are most important to you and what compromises you might be able to make after learning more about the advantages and disadvantages of your case and the court process.

Whether or not the judge is able to hear the evidence in your matter to decide on the first day of court will depend on how many other matters are on the list and whether there is time. It is possible that your matter could need to be adjourned to another date for any arguments to be made in front of the judge, but we will try to avoid that if possible.

### **Will I need to speak?**

Typically, all interim hearings are dealt with “on the papers”. That means you will not be giving evidence if your matter runs. Your barrister will tell the judge your argument and draw their attention to relevant paragraphs of your affidavit.

### **Will the judge decide on the day?**

If we go in front of the judge for them to decide something, they may well tell us their orders (decision) on the day however, if your matter is complex, it is possible the judge may need more thinking time, and so you might have to return to court on a different day to be told the result or sometimes the judgement will be emailed to us.



## **What happens next?**

We will provide you with a written update so you can understand what the next step in your matter will be.

Some common next steps following a first hearing date are:

### Children's matters

Your matter may be listed for a Child Impact Report, which involves a short visit to a court-appointed Child Consultant soon after the first court date for them to meet with you and your former partner, and sometimes your children, and for them to report back to the court on what might be in the best interests of your children. The process is free.

In addition to the Child Impact Report, or instead of it, your matter may be listed for a family report, which is a lengthier session, usually with a psychologist, who will prepare a report for the court about what they consider to be in the best interests of your children. The family report is with a private practitioner, and the cost, which can be several thousand dollars, is usually shared equally between the parents. In some circumstances, and particularly if there is some urgency to your matter, the court may consider a 'Short Form' family report sufficient – we will discuss this with you if it is an appropriate approach.

### Financial matters

It is likely that some orders will be made on the first court date for you and your former partner to disclose documents so you can each learn more about the other's financial position.

Typically, there are also orders made for valuing significant assets such as real estate and businesses if there is no agreement as to their value.

The next step in a financial matter will be mediation, which will either be held at the court at no charge or private mediation with a barrister as mediator, depending on the size of your asset pool.

In either a financial matter or a children's matter, it is likely that on the first court date, we will be given a date for the interim hearing of any interim matters of your case, which is when the court would make decisions on those issues, we are unlikely to receive a final hearing date at the first court date, but the



court does endeavor to list every matter for a final hearing, to make decisions on a final basis within twelve months from the date that a matter is first listed for hearing.

### **What should I wear?**

In case you do, for some reason, need to be on camera with either the court or your barrister, you should wear something you feel comfortable in that looks professional. Think of the kind of thing you might wear to a job interview.

### **Can I have someone with me?**

You are welcome to have one or two support people with you when you dial into the court, though if you are required to turn on your camera or microphone, we request that you ensure that only you are in the picture or speaking.

### **What will the costs be?**

We will generally brief a barrister to appear on your behalf in court. We will also be involved on the day. We will suggest a barrister who will suit your case, and we will advise you of their costs and ask for your agreement to brief them. We will need to obtain the barrister's funds into our trust account before the court date, as well as ensure that our own costs are paid to date. We will let you know precisely what we need from you.

If you have any questions during the process, please let us know, as we want to make the experience as comfortable for you as possible.